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July 2, 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

**BY HAND DELIVERY**

**EX-PARTE LETTER**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

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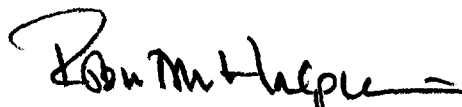
Re: Policy and Rules Concerning the Interstate, Interexchange  
Marketplace, Implementation of Section 254(g) of the  
Communications Act, as Amended, CC Docket No. 96-61

Dear Mr. Caton:

This letter is being filed, in duplicate, to report that a copy of the attached letter was sent today on behalf of the State of Alaska to the Chairman, with copies to the other Commissioners and the Common Carrier Bureau.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,



Robert M. Halperin  
Counsel for the State of Alaska

Enclosure

cc: The Honorable Reed E. Hundt, Chairman  
Commissioner Rachelle B. Chong  
Commissioner Susan Ness  
Commissioner James H. Quello  
Regina M. Keeney, Chief, Common Carrier Bureau  
Patrick Donovan, Common Carrier Bureau  
Thomas K. Crowe, Counsel for CNMI  
Kent Y. Nakamura, Counsel for Sprint

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**BY HAND**

The Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

Re: Policy and Rules Concerning the Interstate, Interexchange  
Marketplace, Implementation of Section 254(g) of the  
Communications Act, as Amended, CC Docket No. 96-61

Dear Mr. Chairman:

The State of Alaska, by its attorneys, feels compelled to comment on the Opposition of Sprint Communications Company, L.P. ("Sprint") filed in this docket on June 26, 1997. Although the State offers no opinion on the specific manner in which the statutory mandates for rate integration and geographic rate averaging are to be implemented in the Commonwealth of the Northern Mariana Islands, the State believes that the assertions in Sprint's Opposition could not be more contrary to the clear direction from Congress in Section 254(g) of the Communications Act of 1934, as amended, 47 U.S.C. § 254(g). Acceptance of the positions advocated by Sprint would rewrite the Telecommunications Act of 1996 so as to effectively eliminate geographic rate averaging and rate integration, critically important universal service provisions.

Sprint asserts that in a competitive environment rate "averaging is only required when costs of serving certain customers or routes are not widely divergent and when competition permits such averaging."<sup>1</sup> Sprint then seeks to rely on a Commission decision that has nothing to do with interexchange carrier rates and predates enactment of Section 254(g).<sup>2</sup> It concludes by claiming that a

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<sup>1</sup> Opposition of Sprint, CC Docket No. 96-91, filed June 26, 1997, p. 5.

<sup>2</sup> See *id.*, p. 6.

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July 2, 1997  
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"regulation requiring carriers operating in a competitive market to provide service at noncompensatory rates is likely to have an unintended effect. Rather than the proverbial free lunch, the result of such a regulation is likely to be poor service, withdrawal from the market, and less competition, not more."<sup>3</sup>

The State of Alaska is dismayed at the continuing attempts of interexchange carriers to avoid the clear mandate of Congress to geographically average and integrate their rates for interexchange services. Congress could not have been more clear: as a matter of fundamental national policy, it should cost no more to make an interexchange call in remote or high cost areas than it costs in other areas. Section 254(g) is intended to "ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers."<sup>4</sup>

Sprint would limit the application of rate integration and geographic rate averaging to locations where costs do not deviate to any significant extent from national averages. Yet it cannot be doubted that it is *precisely* those locations that Congress sought to protect in enacting Section 254(g). To suggest that Congress intended these policies to apply only where they would have minimal effect is far-fetched.

Sprint's contentions that rate integration and geographic rate averaging result in subsidies that cannot be implemented in a competitive market ignore the fact that Congress has decreed that rate integration and geographic rate averaging are the law of the land. It is no accident that these requirements are found in the universal service section of the Communications Act of 1934, as amended. In the context of assuring that all Americans, regardless of where they live, can receive telecommunications services at reasonable and nondiscriminatory rates, Congress has decided that interexchange services are sufficiently important from a nation-building perspective that they must be provided at averaged and integrated rates. Interexchange carriers who believe that these requirements are not good policy because they interfere with a purely competitive market lost that argument in Congress and cannot win it here.

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<sup>3</sup> *Id.*, p. 8.

<sup>4</sup> H.R. Rep. 104-458, 104th Cong., 2d sess., Joint Explanatory Statement of the Committee on Conference, p. 132.

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As the Commission has recognized, all providers of interexchange services must comply with these requirements.<sup>5</sup> It has specifically rejected arguments that the existence of competition permits, nevermind requires as Sprint contends, relaxation of these requirements.<sup>6</sup> Indeed, requiring all providers of interexchange service to comply with these requirements is the best way to make sure that Congress's intentions are fulfilled and that competition is fair. This is a small price to pay for carriers that want the benefits of being able to serve, and market themselves as serving, the entire Nation.

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<sup>5</sup> Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act, as Amended, CC Docket No. 96-61, 11 FCC Rcd. 9564, 9568 at ¶ 9, 9588 at ¶ 52 (1996), *pets. for recon. pending*.

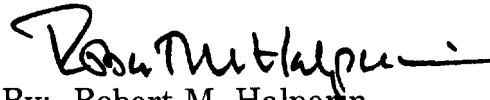
<sup>6</sup> *Id.*, pp. 9582-83 at ¶¶ 38-39, 9588 at ¶ 52. *See also* Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act, as Amended, AT&T Corp.'s Petition for Waiver and Request for Expedited Consideration, 12 FCC Rcd. 934 (Com. Car. Bur. 1997).

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In the event you have any questions concerning this letter, please  
communicate with the undersigned.

Respectfully submitted,

THE STATE OF ALASKA



By: Robert M. Halperin  
Crowell & Moring LLP  
1001 Pennsylvania Ave., N.W.  
Washington, DC 20004

Counsel for the State of Alaska

cc: Commissioner Rachelle B. Chong  
Commissioner Susan Ness  
Commissioner James H. Quello  
Regina M. Keeney, Chief, Common Carrier Bureau  
Patrick Donovan, Common Carrier Bureau  
William F. Caton, Acting Secretary  
Thomas K. Crowe, Counsel for CNMI  
Kent Y. Nakamura, Counsel for Sprint